



**BILLING CODE: 4410-09-P**

**DEPARTMENT OF JUSTICE  
Drug Enforcement Administration**

**Leia A. Frickey, M.D.  
Decision and Order**

On February 28, 2017, the Assistant Administrator, Diversion Control Division, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Leia A. Frickey, M.D. (Registrant), of New Orleans, Louisiana. The Show Cause Order proposed the revocation of Registrant's Certificate of Registration, the denial of any applications to renew or modify her registration, and the denial of any applications for any other DEA registration on the ground that she lacks "state authority to handle controlled substances" in Louisiana, the State in which she is registered with the DEA. Order to Show Cause, at 1 (citing 21 U.S.C. § 824(a)(3)).

With respect to the Agency's jurisdiction, the Show Cause Order alleged that Registrant is registered as a practitioner in schedules II through V, pursuant to DEA Certificate of Registration BF5029574, at the address of 3312 South I-10 Service Road, Metairie, Louisiana. *Id.* The Order also alleged that this registration does not expire until September 30, 2017. *Id.*

As substantive grounds for the proceeding, the Show Cause Order alleged that on May 6, 2016, the Louisiana State Board of Medical Examiners issued a "Notice of Summary Suspension of Medical License, summarily suspending [Registrant's] medical license."<sup>1</sup> *Id.* at 1. As a result, the Order alleged that Registrant is "currently without authority to practice medicine or handle controlled substances in . . . Louisiana, the [S]tate in which [she is] registered with the

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<sup>1</sup> The Show Cause Order also alleges that "on July 25, 2016, the Louisiana Board of Pharmacy issued a Notice of Suspension, suspending [Registrant's] Louisiana CDS license, number CDS.024813-MD, effective May 6, 2016." *Id.* at 1-2. Although those exact facts are not reflected in the record, the record does show that on November 16, 2016, the Louisiana State Board of Pharmacy issued an Order that Registrant's "LOUISIANA CONTROLLED SUBSTANCE LICENSE No. 024813 is hereby indefinitely suspended in accordance with the suspension of her medical license by the Louisiana State Board of Medical Examiners on May 6, 2016." See Government Exhibit (GX) 4, at 1.

DEA.” *Id.* at 2. Thus, based on her “lack of authority to [dispense] controlled substances in . . . Louisiana,” the Order asserted that “DEA must revoke” her registration. *Id.* (citing 21 U.S.C. § 824(a)(3); 21 CFR § 1301.37(b)).

The Show Cause Order notified Registrant of her right to request a hearing on the allegations or to submit a written statement in lieu of a hearing, the procedure for electing either option, and the consequence for failing to elect either option. *Id.* (citing 21 CFR 1301.43). The Show Cause Order also notified Registrant of her right to submit a corrective action plan. *Id.* at 2-3 (citing 21 U.S.C. § 824(c)(2)(C)).

The Government states that on March 16, 2017, “[p]ersonnel from DEA’s New Orleans Field Division served the Order on Registrant.” Government Request for Final Agency Action (RFFA), at 1 (citing Government Exhibit (GX) 5). Specifically, a DEA Diversion Investigator (DI) and DEA Task Force Officer traveled to a medical center in Louisiana on March 16, 2017, where the nursing staff escorted them to her room where they found the Registrant. GX5, at 1. The DI advised Registrant that he had a Show Cause Order to serve on her. *Id.* According to the DI’s affidavit, the Registrant then responded “‘You will not take my DEA number’ and she refused to take the [Show Cause Order] document.” *Id.* The DI “then placed the [Order] on the night stand next to [Registrant’s] bed.” *Id.*

On May 19, 2017, the Government forwarded its Request for Final Agency Action and an evidentiary record to my Office. Therein, the Government represents that Registrant has neither requested a hearing nor “otherwise corresponded or communicated with DEA regarding” the Show Cause Order. RFFA, at 2. Based on the Government’s representation and the record, I find that more than 30 days have passed since the Order to Show Cause was served on Registrant, and she has neither requested a hearing nor submitted a written statement in lieu of a

hearing. *Id.* at 2 (citing 21 CFR 1301.43(d)). Accordingly, I find that Registrant has waived her right to a hearing or to submit a written statement and issue this Decision and Order based on relevant evidence submitted by the Government. I make the following findings.

### **FINDINGS OF FACT**

Registrant is a physician who is registered as a practitioner in schedules II-V pursuant to Certificate of Registration BF5029574, at the address of 3312 South I-10 Service Road, Metairie, Louisiana. GX 1, at 1. The registration does not expire until September 30, 2017. *Id.*

On May 6, 2016, the Louisiana State Board of Medical Examiners summarily suspended Registrant's medical license and stated that the suspension was "effective immediately." GX 3, at 1. On November 16, 2016, the Louisiana State Board of Pharmacy "indefinitely suspended" Registrant's controlled substance license "in accordance with the suspension of her medical license by the Louisiana State Board of Medical Examiners on May 6, 2016." GX 4, at 1. Based on the above, I find that Registrant does not currently have authority under the laws of Louisiana to dispense controlled substances.

### **DISCUSSION**

Pursuant to 21 U.S.C. § 824(a)(3), the Attorney General is authorized to suspend or revoke a registration issued under section 823 of Title 21, "upon a finding that the registrant . . . has had [her] State license . . . suspended [or] revoked . . . by competent State authority and is no longer authorized by State law to engage in the . . . dispensing of controlled substances." With respect to a practitioner, DEA has long held that the possession of authority to dispense controlled substances under the laws of the State in which a practitioner engages in professional practice is a fundamental condition for obtaining and maintaining a registration. *See, e.g., James L. Hooper*, 76 FR 71371 (2011), *pet. for rev. denied*, 481 Fed. Appx. 826 (4th Cir. 2012); *see*

*also Frederick Marsh Blanton*, 43 FR 27616 (1978) (“State authorization to dispense or otherwise handle controlled substances is a prerequisite to the issuance and maintenance of a Federal controlled substances registration.”).

This rule derives from the text of two provisions of the CSA. First, Congress defined “the term ‘practitioner’ [to] mean[] a . . . physician . . . or other person licensed, registered or otherwise permitted, by . . . the jurisdiction in which he practices . . . to distribute, dispense, [or] administer . . . a controlled substance in the course of professional practice.” 21 U.S.C. § 802(21). Second, in setting the requirements for obtaining a practitioner’s registration, Congress directed that “[t]he Attorney General shall register practitioners . . . if the applicant is authorized to dispense . . . controlled substances under the laws of the State in which [s]he practices.” 21 U.S.C. § 823(f). Because Congress has clearly mandated that a practitioner possess state authority in order to be deemed a practitioner under the Act, DEA has held repeatedly that revocation of a practitioner’s registration is the appropriate sanction whenever she is no longer authorized to dispense controlled substances under the laws of the State in which she engages in professional practice. *See, e.g., Calvin Ramsey*, 76 FR 20034, 20036 (2011); *Sheran Arden Yeates, M.D.*, 71 FR 39130, 39131 (2006); *Dominick A. Ricci*, 58 FR 51104, 51105 (1993); *Bobby Watts*, 53 FR 11919, 11920 (1988); *Blanton*, 43 FR 27616 (1978).

Moreover, because “the controlling question” in a proceeding brought under 21 U.S.C. § 824(a)(3) is whether the holder of a practitioner’s registration “is currently authorized to handle controlled substances in the [S]tate,” *Hooper*, 76 FR at 71371 (quoting *Anne Lazar Thorn*, 62 FR 12847, 12848 (1997)), the Agency has also long held that revocation is warranted even where a practitioner has lost her state authority by virtue of the State’s use of summary process and the State has yet to provide a hearing to challenge the suspension. *Bourne Pharmacy*, 72 FR 18273,

18274 (2007); *Wingfield Drugs*, 52 FR 27070, 27071 (1987). Thus, it is of no consequence that the Louisiana State Board of Medical Examiners has employed summary process in suspending Registrant's state medical license. What is consequential is that Registrant is no longer currently authorized to dispense controlled substances in Louisiana, the State in which she is registered. I will therefore order that her registration be revoked.

### **ORDER**

Pursuant to the authority vested in me by 21 U.S.C. §§ 823(f) and 824(a), as well as 28 CFR 0.100(b), I order that DEA Certificate of Registration No. BF5029574, issued to Leia A. Frickey, M.D., be, and it hereby is, revoked. I further order that any pending application of Leia A. Frickey to renew or modify the above registration, or any pending application of Leia A. Frickey for any other registration, be, and it hereby is, denied. This Order is effective immediately.

Date: July 31, 2017

Chuck Rosenberg  
Acting Administrator

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